United Nations S/2002/746

Security Council

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Report of the Secretary-General on the United Nations Interim Force in Lebanon

(for the period from 17 January 2002 to 12 July 2002)

I. Introduction

1. The present report is submitted pursuant to Security Council resolution 1391 (2002) of 28 January 2002, by which the Council extended the mandate of the United Nations Interim Force in Lebanon (UNIFIL) for a further period of six months, until 31 July 2002. It covers developments since my previous report, dated 16 January 2002 (S/2002/55).

II. Situation in the area of operation

2. Tension in the UNIFIL area of operation increased during the reporting period, with an outbreak of violent incidents across the Blue Line in the first two weeks of April, surpassing any activity seen since Israel's withdrawal from Lebanon in May 2000. These events coincided with the substantial escalation in Israel and the Occupied Palestinian Territory of the same period. Militant activities were carried out by Hizbollah, by Palestinian and by unidentified elements both inside and outside the Shab'a farms area. The situation stabilized in May and has since remained relatively quiet but tense.

3. Hizbollah conducted a campaign of attacks on Israel Defence Forces (IDF) positions in the Shab'a farms area from 30 March through 13 April, with UNIFIL recording the firing by Hizbollah of a total of 152 anti-tank missiles, 1,246 mortars, 28 katyushas, 11 surface-to-air missiles and hundreds of rounds of small arms fire. IDF retaliation was confined to targets in the areas from which Hizbollah fire had emanated, primarily in the vicinity of Shab'a and Kafr Shuba. UNIFIL counted IDF fire amounting to 1,108 rounds of artillery and mortars, 118 tank rounds, 142 aerial bombs, 17 missiles and hundreds of rounds of small arms fire. Neither side reported casualties from these incidents. On 10 April, several IDF tank rounds impacted within 50 metres of UNIFIL position 4-31, causing structural damage. Hizbollah expressly dedicated its action of 10 April to the Palestinian people.

4. Hizbollah also launched attacks against IDF positions in the Shab'a farms area on 23 January and 26 April. These attacks comprised mortars, rockets and small arms, and generated IDF return missile, artillery and small arms fire. IDF reported four of its soldiers lightly wounded in the 26 April incident. Outside the Shab'a farms, on 7 May, there was a brief exchange of fire between Hizbollah and IDF positions north of Adamit, sparked by three shots from an unidentified source on the Lebanese side.

5. The first incidents involving attacks across the Blue Line by Palestinian or other unidentified armed elements occurred on 11 and 12 March. On 11 March, there was a brief exchange of fire between an unknown shooter and IDF soldiers in the vicinity of the IDF position south of Ghajar. On 12 March, infiltrators attacked civilian vehicles near the Israeli village of Shelomi, killing five civilians and one IDF soldier. Following an Israeli protest that the perpetrators originated from Lebanon, UNIFIL carried out an investigation but the findings were inconclusive. IDF

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reportedly shot and killed two of the assailants but have been unable to identify them or any accomplices.

6. The pace of militant activities accelerated in the first week of April. On 31 March, four Palestinian gunmen exchanged fire with an IDF patrol across the Blue Line near Ayta ash Shab. Two of the Palestinians were wounded and all four were later taken into custody by the Lebanese Army. On the same day, up to three katyushas were fired nearby. On 2 April, at least one katyusha fired across the line by unknown elements landed north-east of Qiryat Shemona. On 6 April, suspected Palestinian shooters fired small arms rounds and two rockets across the line at an IDF position near Alma ash Shab and four rockets into the Israeli side of Ghajar village, where they wounded five civilians. On 7 April, suspected Palestinian elements fired rockets and small arms rounds across the line to Avivim, injuring four IDF soldiers.

7. During this period, the United Nations Special Coordinator for the Middle East Peace Process, Terje Roed-Larsen, and my Personal Representative for southern Lebanon, Staffan de Mistura, engaged in concerted diplomatic activity to de-escalate the violence. UNIFIL increased its patrols and its Force Commander intervened personally with the parties on the ground to contain incidents. Key members of the international community were active in urging the parties to exercise restraint. On 10 April, the Quartet, meeting in Madrid, expressed its grave concern about the attacks across the Blue Line and called on all parties to respect the line, halt all attacks and show the utmost restraint. At the same time, I called on the Government of Lebanon and all relevant parties to condemn and prevent such violations.

8. In the second week of April, the Lebanese authorities pledged to take measures to control the "unidentified elements" but continued to maintain the legitimacy of "resistance" activities in the Shab'a farms area. In a letter to me dated 19 April 2002 (A/56/928-S/2002/473), the Chargé d'affaires a.i. of the Permanent Mission of Lebanon to the United Nations reiterated the Lebanese position that, "while affirming the right and duty of the Lebanese Government, the resistance and the people to liberate the Shab'a farmlands using all legitimate means", the Lebanese Government was "committed to keeping the situation along the Blue Line from Naqurah to the Shab'a farmlands under control". From 7 April, the Lebanese Joint Security Forces augmented their ground patrols and instituted new checkpoints, and the Lebanese Army enhanced its presence. Incidents thereafter were largely confined to the Shab'a farms area. The Government of Lebanon is to be commended for taking these measures and demonstrating its ability to effectively assert its authority. Nevertheless, the United Nations position is clear, that attacks anywhere across the Blue Line, whether into Israel or the Shab'a farms area, constitute violations of Security Council resolutions.

9. Unjustified Israeli air incursions into sovereign Lebanese airspace continued on an almost daily basis throughout most of the reporting period, often penetrating deep into Lebanon and frequently generating sonic booms. In the latter half of April, a pattern emerged whereby the aircraft would fly out to sea and enter Lebanese airspace north of the UNIFIL area of operation, thus avoiding direct observation and verification by UNIFIL.

10. In January Hizbollah began responding to the overflights with anti-aircraft fire. This activity has continued through the present. On a number of occasions, most recently on 23 June, shells crossed the Blue Line and exploded in the air over Kefar Yuval, near Qiryat Shemona, and Shelomi, causing minor damage to civilian structures and lightly wounding two civilians. Calls on Israel to cease the overflights and to fully respect the Blue Line have continued to be issued by myself, other senior United Nations officials — most notably my Personal Representative — and a number of interested Governments. We have stressed that Israeli violations of Lebanese airspace and Hizbollah anti-aircraft fire have the potential to aggravate tensions and that one violation cannot justify another. We have continued to urge the parties to cease activities that can provoke incidents.

11. There were comparatively few minor ground violations of the line, all originating from the Lebanese side and primarily attributable to crossings by shepherds. However, demonstrators on the Lebanese side gathered regularly at the points of friction identified in my previous reports, Sheikh Abbad Hill east of Hula and Fatima gate west of Metulla, to throw stones at Israeli personnel across the line. The number of incidents and size of the crowds increased, particularly in the latter part of the reporting period. Several hundred Lebanese gathered at the sites in the days marking the second anniversary of Israel's withdrawal from Lebanon. On 23 June, a Lebanese

civilian was injured when an IDF soldier fired at a group of boys who had refused to stop shooting paint guns at the IDF position at Sheikh Abbad Hill.

12. Local administration in the south was somewhat strengthened during the reporting period. Communications, health and welfare systems, and postal services continued to make slow progress towards integration with the rest of the country. The Lebanese Joint Security Forces, comprised of army and internal security forces, and the Lebanese Army continued to operate in the areas vacated by Israel, and increased their activity near the Blue Line, intervening on several occasions to avert potential threats to peace and security (see para. 8 above).

13. The Government of Lebanon continued to maintain the position that, so long as there is no comprehensive peace with Israel, the Lebanese armed forces will not be deployed along the Blue Line. In this vacuum, Hizbollah maintained its visible presence near the line through its network of mobile and fixed positions. Hizbollah continued to extend social, medical and educational services to the local population in areas near the Blue Line.

14. On several occasions, Hizbollah personnel interfered with the freedom of movement of UNIFIL. In the most serious incident, on 4 April about 15 Hizbollah personnel forced an Observer Group Lebanon patrol south-west of Kafr Shuba to stop at gunpoint and assaulted the observers with rifle butts, injuring three, one seriously. When a UNIFIL patrol intervened, one soldier was also injured. Hizbollah retreated shortly after the UNIFIL Force Commander contacted Lebanese officials. This incident was protested strongly to the Lebanese authorities by UNIFIL and by the Under-Secretary-General for Peacekeeping Operations. Senior Lebanese officials gave their assurances that the perpetrators would be arrested and brought to trial but, regrettably, this has yet to occur.

15. The United Nations continued to coordinate international assistance to the Government of Lebanon for mine action in southern Lebanon under the close supervision of my Personal Representative and in collaboration with the United Nations Development Programme (UNDP). An exchange of letters in March confirmed the formal involvement of the United Nations in project management and quality assurance for Operation Emirates Solidarity. The official launch of Phase II of Operation Emirates Solidarity took place on 28 May, marking the beginning of the use of private companies contracted by the United Arab Emirates for mine clearance.

16. The presence of a large number of minefields throughout the UNIFIL area of operation remained a matter of utmost concern. On 30 April, Israel handed over to UNIFIL supplementary data on minefields in south Lebanon. The data were conveyed to the appropriate Lebanese authorities. The IDF also cooperated in matters of technical assistance to UNIFIL.

17. A number of civilian casualties were recorded owing to mine incidents. Since January, one civilian died and five were injured as a result of exploding mines and ordnance, while four commercial demining personnel were injured during mine-clearance operations. UNIFIL continued marking and fencing known minefields and demolished more than 620 mines and rounds of unexploded ordnance.

18. UNIFIL continued to assist the civilian population in the form of medical care, water projects, equipment or services for schools and orphanages and supplies of social services to the needy. This assistance was provided from resources primarily made available by troop-contributing countries. UNIFIL medical centres and mobile teams provided medical care to an average of 700 civilian patients per month. A field dental programme treated approximately 200 cases per month. Veterinary assistance was provided to some villages. UNIFIL cooperated closely on humanitarian matters with the Lebanese authorities, United Nations agencies, the International Committee of the Red Cross and other organizations and agencies operating in Lebanon. On 15 June, the Economic and Social Commission for Western Asia (ESCWA) and UNIFIL signed a memorandum of understanding under the auspices of the Minister for Social Affairs of Lebanon, intended to ensure that the core competencies of UNIFIL troop contributors will continue to contribute to the development of vocational training centres, promotion of modern agricultural practices and provision of improved health care to the people of the south.

19. My Personal Representative worked in close collaboration with UNDP and the World Bank to facilitate the funding and implementation of development projects in the south by privately and

publicly advocating the needs of the area. UNDP continued to lead the efforts of the United Nations system in working with the Lebanese authorities for the development and rehabilitation of the south.

III. Organizational matters

20. UNIFIL operations were focused on the Blue Line and the adjacent area, where UNIFIL continued its efforts to maintain the ceasefire through increased patrols, observation from fixed positions and close contact with the parties, the latter with a view to correcting violations, resolving incidents and preventing escalation. The United Nations Truce Supervision Organization (UNTSO), through Observer Group Lebanon, supported UNIFIL in the fulfilment of its mandate. Through close liaison with all parties, UNIFIL and its Force Commander, my Personal Representative and the Special Coordinator expended considerable effort to contain incidents and de-escalate the very volatile situation that prevailed in early April.

21. Planning for the reconfiguration of UNIFIL proceeded. The next phase of the reduction and redeployment is commencing at the time of writing of this report, with the repatriation and non-replacement of about 135 Ukrainian troops. Owing to operational exigencies, in accordance with the Security Council's request in resolution 1391 (2002) to implement the reconfiguration in the light of developments on the ground, the first planned reduction of the Fijian contingent scheduled for June was postponed and will take place in August. This technical adjustment to the schedule does not, however, otherwise affect the timetable set forth for the Security Council in my previous report (S/2002/55). The Force will be stabilized at a strength of 2,000 all ranks by the end of 2002. A map showing the current deployment of UNIFIL is attached.

22. As at 30 June 2002, UNIFIL comprised 3,628 troops, from Fiji (587), France (236), Ghana (801), India (825), Ireland (5), Italy (51), Poland (474) and Ukraine (649). UNIFIL was assisted in its tasks by 51 military observers of UNTSO. In addition, UNIFIL employed 470 civilian staff, of whom 131 were recruited internationally and 339 locally.

23. Major General Lalit Mohan Tewari continued as Force Commander. Mr. de Mistura continued to act as my Personal Representative in Beirut.

24. I regret to report the death of a Fijian member of the Force due to an accident while on duty. Since the establishment of UNIFIL, 240 members of the Force have lost their lives: 78 as a result of firings or bomb explosions, 102 as a result of accidents and 60 from other causes. Firing or mine explosions wounded a total of 344.

IV. Financial aspects

25. By its resolution 56/214 B of 27 June 2002, the General Assembly appropriated the amount of $117.1 million gross, equivalent to a monthly rate of $9.8 million gross, for the maintenance of the Force for the period from 1 July 2002 to 30 June 2003. Should the Security Council decide to extend the mandate of UNIFIL beyond 31 July 2002, as recommended in paragraph 33 below, the cost of its maintenance would be limited to the monthly rate approved by the General Assembly.

26. As at 30 June 2002, unpaid assessments to the special account for UNIFIL for the period since its inception to 31 July 2002 amounted to $106.5 million. The total outstanding assessed contributions for all peacekeeping operations at that date amounted to $1,299.6 million.

V. Observations

27. I was able to report in January (S/2002/55) that the greater restraint shown by both parties with regard to the Shab'a farms was perhaps indicative of a renewed commitment on both sides of the Blue Line to respect the line in its entirety. Regrettably, events over the past few months, particularly the alarming escalation in April, have confirmed that that assessment was premature. These events have underscored the fragility of the situation and demonstrated how readily tensions can escalate.

28. The commitment by Hizbollah to the launching of hostile attacks across the Blue Line, and the Lebanese Government's unwillingness to fulfil its commitment to ensure full respect for the Blue Line, contravene Security Council decisions. That line was drawn by the United Nations and recognized by the Security Council as confirming, for purposes of resolution 425 (1978), the withdrawal of Israeli forces from southern Lebanon. I would note that respect for Security Council

resolutions is the most basic requirement of international legitimacy for any Member State. Violations of the Blue Line, whether they entail a physical crossing of the line or skirting it, cannot be justified. Each violation, whether it be by land, by sea or by air, carries with it the possibility of provoking a deterioration of the situation on the ground.

29. I would take this opportunity to reiterate the findings of my report to the Security Council of 22 May 2000 (S/2000/460), strongly endorsed by the Council in the President's statement of 23 May 2000 (S/PRST/2000/18). The Shab'a farmlands lie in an area occupied by Israel in 1967, and are therefore subject to a negotiated settlement under Council resolutions 242 (1967) and 338 (1973), and are part of the area of operation of the United Nations Disengagement Observer Force (UNDOF). No internationally recognized boundary agreement has been concluded between Lebanon and the Syrian Arab Republic. The Blue Line was drawn without prejudice to any determination of territorial questions between the two countries that they may wish to conclude in the future.

30. By its actions to contain the incidents along the Blue Line west of Ghajar, the Government of Lebanon demonstrated its capacity to effectively exercise its authority, to protect the population of southern Lebanon and United Nations peacekeepers, and to ensure stability. The Lebanese authorities should continue to expand these efforts. More steps can be taken to extend the Government's authority to all of southern Lebanon, as called for by the Security Council most recently in its resolution 1391 (2002), including taking full responsibility for the provision of basic services to the population and for the deployment of the Lebanese Army.

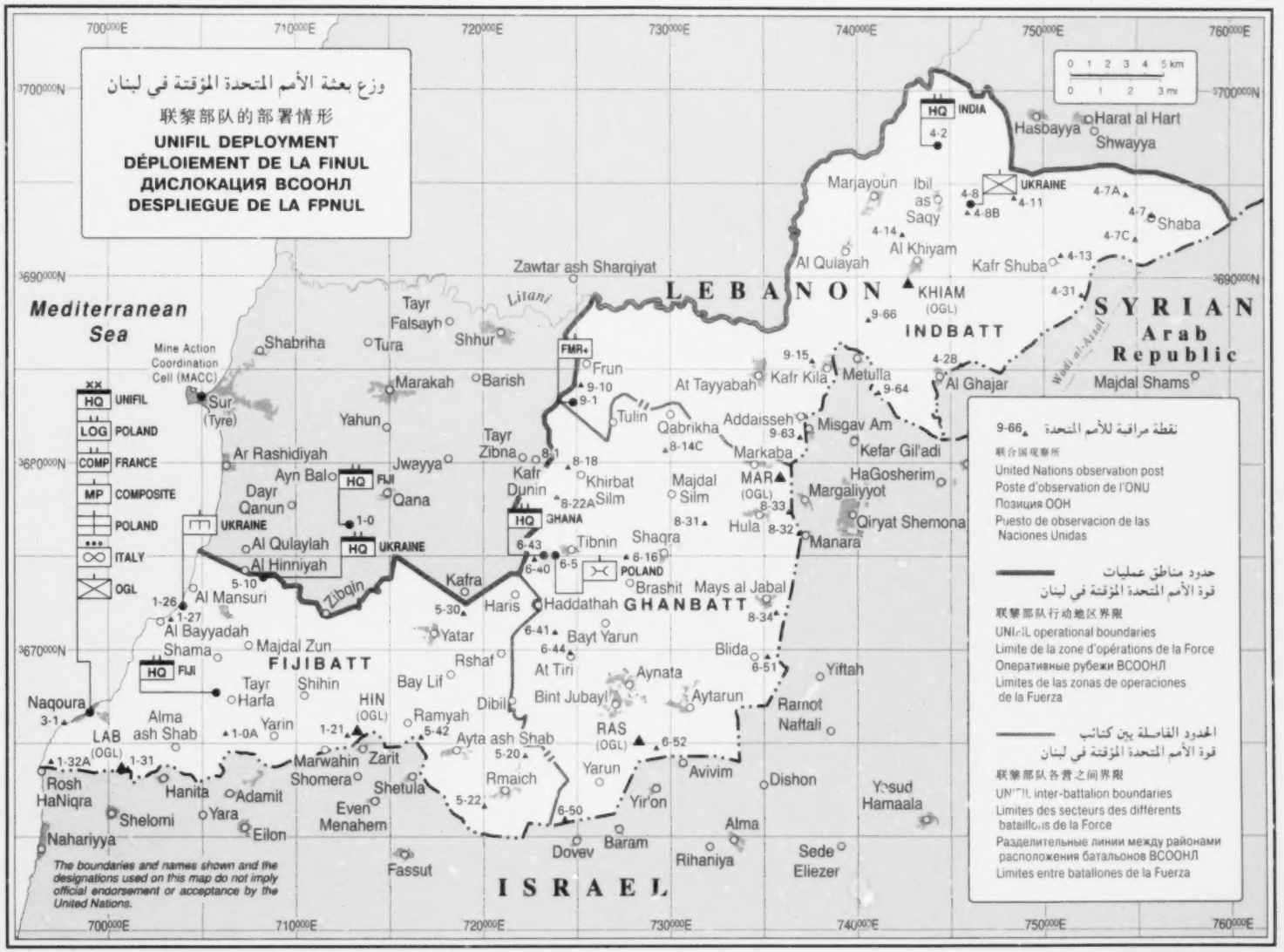
31. I remain concerned about the restrictions of movement on UNIFIL personnel, including Observer Group Lebanon. UNIFIL must be able to carry out its mandate and fulfil its tasks of patrolling, observing, reporting and liaising with the parties unhindered by armed elements. Attacks on United Nations personnel or property are unacceptable. The Government of Lebanon should implement its obligation to ensure full freedom of movement of UNIFIL throughout its area of operation.

32. I have frequently expressed my concern regarding developments in southern Lebanon and called for restraint from both sides, most recently in my statement to the Security Council of 20 June. The critical need in this highly turbulent time is for all parties concerned to respect the Blue Line, as repeatedly called for by the Security Council, to cease all violations of this line and to refrain from any action that could serve to destabilize the situation. Mr. de Mistura and Mr. Roed-Larsen will continue to lend the political and diplomatic support of the United Nations to the parties to establish lasting peace and security.

33. In a letter dated 9 July 2002 (S/2002/739), the Chargé d'affaires a.i. of the Permanent Mission of Lebanon to the United Nations conveyed to me his Government's request that the Security Council extend the mandate of UNIFIL for a further period of six months. In the light of conditions prevailing in the area, the Security Council may wish to decide to extend the mandate of UNIFIL until 31 January 2003.

34. I must again draw attention to the serious shortfall in the funding of the Force. At present, unpaid assessments amount to $106.5 million. This represents money owed to the Member States contributing the troops that make up the Force. I appeal to all Member States to pay their assessments promptly and in full and to clear all remaining arrears. I should like to express my gratitude to the Governments contributing troops to the Force for their understanding and patience.

35. In conclusion, I wish to express my appreciation to Mr. de Mistura, my Personal Representative, and to pay tribute to Major General Tewari and the men and women of UNIFIL for the manner in which they have carried out their tasks. Their discipline and bearing have been of a high order, reflecting credit on themselves and the United Nations.



Map No. 4144 Rev. 5 UNITED NATIONS
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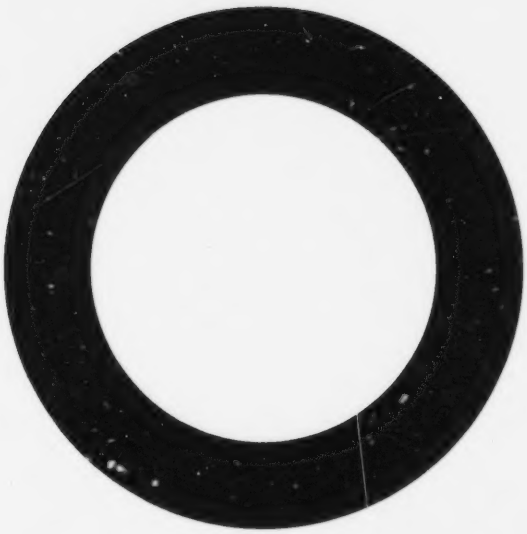

United Nations S/2002/747

Security Council

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Draft resolution

The Security Council,

Taking note of the entry into force on 1 July 2002, of the Statute of the International Criminal Court (ICC), done at Rome 17 July 1998 (the Rome Statute),

Emphasizing the importance to international peace and security of United Nations operations,

Noting that not all States are parties to the Rome Statute,

Noting that States Parties to the Rome Statute have chosen to accept its jurisdiction in accordance with the Statute and in particular the principle of complementarity,

Noting that States not Party to the Rome Statute will continue to fulfil their responsibilities in their national jurisdictions in relation to international crimes,

Determining that operations established or authorized by the United Nations Security Council are deployed to maintain or restore international peace and security,

Determining further that it is in the interests of international peace and security to facilitate Member States' ability to contribute to operations established or authorized by the United Nations Security Council,

Acting under Chapter VII of the Charter of the United Nations,

1. *Requests*, consistent with the provisions of Article 16 of the Rome Statute, that the ICC, if a case arises involving current or former officials or personnel from a contributing State not a Party to the Rome Statute over acts or omissions relating to a United Nations established or authorized operation, shall for a twelve-month period starting 1 July 2002 not commence or proceed with investigation or prosecution of any such case, unless the Security Council decides otherwise;

2. *Expresses* the intention to renew the request in paragraph 1 under the same conditions each 1 July for further 12-month periods for as long as may be necessary;

3. *Decides* that Member States shall take no action inconsistent with paragraph 1 and with their international obligations;

4. *Decides* to remain seized of the matter.

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United Nations S/2002/748

Security Council

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Letter dated 10 July 2002 from the Permanent Representative of Denmark to the United Nations addressed to the Secretary-General

I have the honour to bring to your attention the statement on the African Union issued on 9 July by the Presidency of the European Union on behalf of the European Union (see annex).

I should be grateful if you would have the text of this letter and its annex circulated as a document of the Security Council.

(*Signed*) Ellen Margrethe **Løj**
Permanent Representative of Denmark to the United Nations

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Annex to the letter dated 10 July 2002 from the Permanent Representative of Denmark to the United Nations addressed to the Secretary-General

[Original: English and French]

Statement on the African Union, issued on 9 July 2002 by the Presidency of the European Union on behalf of the European Union

The European Union warmly welcomes the inauguration today of the African Union at its first summit in Durban. With this historic event, African nations have taken an important step towards creating a stronger and more coherent framework for peace, stability, good governance and economic development in Africa.

The tasks of the South African Presidency of the African Union are enormous, especially with regard to giving impetus to the transformation process and operationalizing links with the subregional organizations. The European Union is encouraged by the perspectives presented for the implementation of the African Union and looks to African leaders to demonstrate the resolve and take the concrete actions necessary to make it operational. The European Union is fully supportive of the Presidency of the African Union in this process.

In this context, the European Union also reiterates its support for the New Partnership for Africa's Development as a catalyst for Africa's development, in line with the aims of the African Union. The European Union attaches special importance to the NEPAD principles of democracy, human rights, the rule of law and political and economic good governance as well as conflict prevention as cornerstones for the creation of a more conducive environment for peace, stability and development in Africa.

In line with the Cairo Declaration, the European Union reiterates its support for the African efforts to make the African Union a success. The European Union looks forward to the opportunities that the African Union brings to build on earlier cooperation and to deepen political dialogue.

The Central and Eastern European countries associated with the European Union, the associated countries Cyprus and Malta, and the European Free Trade Association countries Norway and Liechtenstein, members of the European Economic Area, align themselves with the present statement.

United Nations S/2002/749

Security Council

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11 July 2002

Original: English

Letter dated 11 July 2002 from the Chargé d'affaires a.i. of the Permanent Mission of Namibia to the United Nations addressed to the Secretary-General

I have the honour to transmit to you a memorandum by the Frente POLISARIO on the question of Western Sahara (see annex), and I should be grateful if you would have it circulated as a document of the Security Council as a matter of urgency.

(*Signed*) Gerhard **Theron**
Chargé d'affaires a.i.

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Annex to the letter dated 11 July 2002 from the Chargé d'affaires a.i. of the Permanent Mission of Namibia to the United Nations addressed to the Secretary-General

Memorandum of the Frente POLISARIO on the question of Western Sahara

Introduction

The question of Western Sahara is one of the most sensitive, if not the most sensitive, on the current agenda of the United Nations Security Council. It bears with it a triple dimension. First, it involves the right of self-determination, as a fundamental principle enshrined in the United Nations Charter. Second, as long as the conflict remains unresolved, the regional stability will continue to be at great risk. Third, the success or failure of the United Nations will enhance or compromise the credibility of the current international system. Just one of these single dimensions is of enough political weight for the Security Council to seriously engage in finding a last and just solution to the Western Sahara issue.

History proves that any solution that is against or ignores the right of self-determination cannot be a lasting one. This basic lesson, which has been tragically challenged by powerful and less powerful regimes, has always demonstrated its universal value and truth. The recent independence of East Timor constitutes a fresh confirmation of that assessment as well as the struggle engaged by the African peoples for freedom, which earned the recognition as a fight for the principle of self-determination, a key pillar of the international system represented by the United Nations.

From this perspective, Western Sahara case is not a new problem of a new nature. It is a plain, simple case of decolonization whose solution cannot be a new challenge to the historical old lesson. If Morocco made a clear mistake; the International Community should not do the same.

The promised referendum

Western Sahara was included in the UN list of the Non-Self-Governing territories in 1963 and the UN General Assembly had adopted in 1966 its first resolution requesting Spain, as administering power, to make the necessary arrangements for the organization of a referendum on self-determination for the people of Western Sahara.

In 1967 the first Sahrawi independence movement was founded to peacefully seek the independence of the territory. On June 17, 1970, the Sahrawi organized a peaceful demonstration, which was brutally repressed by the Spanish military forces. Three years later, on May 10, 1973, the Frente Polisario was created and the struggle for the liberation and independence of Western Sahara began.

Not until 1974 did Spain indicate its readiness to implement the UN resolutions, but soon Morocco and Mauritania claimed sovereignty over the Territory. The UN General Assembly asked for the opinion of the International Court of Justice ICJ).

The ICJ issued its verdict on October 16, 1975:

"The materials and information presented to it do not establish any tie of territorial sovereignty between the territory of Western Sahara and the Kingdom of Morocco or the Mauritanian entity. Thus the Court has not found legal ties of such a nature as might affect the application of General Assembly resolution 1514 (XV) in the decolonization of Western Sahara and, in particular, of the principle of self-determination through the free and genuine expression of the will of the peoples of the Territory."

The invasion

Despite the ICJ opinion, Morocco and Mauritania immediately moved to illegally occupy Western Sahara. With Moroccan government coercion and financial incentives around 300,000 Moroccans were organized, under protection of the Moroccan Armed Forces, to participate in the so-called "Green March" to invade and settle Western Sahara. The UN Security Council adopted resolution 375 (in 1975) by which it requested the immediate withdrawal of the Green March" from the territory. It was an empty request, for over twenty-five years has passed, and Morocco is still illegally occupying Western Sahara.

In November 14, 1975, under a covert treaty now known as the "Madrid Accords", the Spanish authorities partitioned "Spanish Sahara" between Morocco and Mauritania. To justify their military invasion and partition of the territory, the new invaders tried to present the Madrid Accords as a legal title that overrode the United Nation's resolutions and the principle of self-determination enshrined in the UN Charter.

However, as the UN Under-Secretary of Legal Affairs stated recently:

"The Madrid Agreement did not transfer sovereignty over the territory, nor did it confer upon any of the signatories the status of an administering Power - a status which Spain alone could not have unilaterally transferred. The transfer of administrative authority over the territory to Morocco and Mauritania in 1975, did not affect the international status of Western Sahara as Non-Self-Governing Territory." (Letter to the President of the Security Council on 29 January 2002)

The invasion of Western Sahara led to a mass exodus of the Sahrawi civilian population over the eastern border of the Territory to escape Moroccan air strikes. These indiscriminate bombardments of the civilian population involved the use of both Napalm and cluster bombs. More than 160.000 Sahrawi refugees settled in tented camps close to the border, near the Algerian town of Tindouf where they have been living in dire conditions for the past 27 years.

In 1979 Mauritania signed a formal treaty with Polisario agreeing to withdraw all territorial claims to Western Sahara and formally recognized the Sahrawi Arab Democratic Republic (SADR) as the legitimate sovereign authority of Western Sahara.

Moroccan forces immediately moved to occupy the territory vacated by Mauritanian forces. That fait accompli was vigorously condemned by the UNGA resolutions 3437(1979) and 3518(1980). A protracted military struggle took place that involved

Morocco's brutal repression of the civilian Sahrawi population remaining in the occupied territory, which was well documented by the international humanitarian organizations including Amnesty International, Human Rights Watch, and Federation International des Droits de l'Home.

In the early 1980's Morocco, unable to militarily win the war, undertook the construction of a 2,200 km defensive wall (berm) to protect its demoralized forces and to enclose the occupied territory with a view of initiating the exploitation of the Territory's mineral resources. This rock/sand installation stands approximately 3 meters high with regularly spaced garrisons, with the foreground covered with trenches and barbed wire and extensively defended with an estimated 3 million landmines. The new strategy was financially burdensome but not militarily effective against the Sahrawi forces.

The UN-OAU Settlement Plan

In 1985, the UN General Assembly adopted unanimously resolution 40/50 based on a draft, which was introduced by the President of Senegal, chairman of the Organization of the African Unity, (OAU) on behalf of the African States. Resolution 40/50 mandates the Secretary General to start discussions with Morocco and the Polisario Front with the aim to obtain their cooperation for the implementation of the resolution.

The UNGA resolution, which reflects the entire operative paragraphs of the resolution 104(XIX) adopted in Addis Ababa by the OAU summit, requested the two parties to start (a) direct negotiations to reach (b) a cease-fire, and (c) to agree on the modalities of a free and fair referendum on self-determination for the people of Western Sahara. The OAU resolution was not implemented due to Morocco's obstruction; however, it remained as a fundamental reference for any future engagement of the United Nations to peacefully resolve the conflict.

As a result, the UN and the OAU elaborated, in the summer of 1988, a settlement plan, which was agreed by both parties. The UN Security Council adopted the Settlement Plan in resolutions 658 (690) and 690 (1991), by which it mandated the establishment of the UN Mission for a Referendum on the Western Sahara (MINURSO). This eventually led to (a) the deployment of MINURSO; (b) the declaration of a cease-fire and(c) the beginning of the identification of eligible voters based upon the last Spanish census organized in the territory in 1974, with the aim of holding a referendum on February 1991 to determine the wishes of the Sahrawi people.

The Houston Accords

The facts have demonstrated that Morocco's acceptance of the Settlement Plan was rather a tactical move for achieving two main objectives of a hidden agenda.

On the one hand, it wanted a cease-fire, as a solution to the huge financial cost of the war. On the other hand, in December 1991, Morocco imposed upon the UN a substantial modification of the clauses concerning the electorate with a view to legitimizing an

electoral fraud. In fact, Morocco attempted to add approximately 250,000 names to the voter list. Such a move led to the delay of the promised referendum for several years.

In September 1997, under the auspices of former US Secretary of State, James Baker III, Personnel Envoy of the UN Secretary General, the two parties signed the Houston Agreements, which constituted a major breakthrough of the impasse that enabled the Secretary general to inform the Security Council in his report S/1997/742 of November 1997:

> *"With these agreements, and the goodwill and spirit of cooperation shown during the talks, the main contentious issues that had impeded the implementation of the plan have thus been satisfactorily addressed. These achievements create the conditions to proceed towards the full implementation of the settlement plan, starting with the resumption of the identification process." (Paragraphs. 26 & 27)*

MINURSO finally accomplished the identification process and published in February 2000, the lists of those eligible to vote in the referendum. This important progress, achieved by the UN at the cost of six years of efforts and more than 500 million US Dollars, resolved the principal problem that had been stalling the Peace Process. All that was needed was to apply the remaining stages of the Settlement Plan and to organize the referendum.

Obstruction and disengagement of Morocco

Once again the Moroccan regime looked for ways to obstruct the process. It introduced 130,000 fake appeals on behalf of Moroccans who were already rejected by the UN Identification Commission to challenge the list of voters published by MINURSO.

The United Nations could have overcome that obstacle had the Security Council exerted its full authority to assure Moroccan cooperation with MINURSO, bearing in mind that the question of the appeals is a technical problem that can be resolved through the implementation of the UN Protocols and Directives governing the appeals, which were accepted by the two parties in May 1999.

Unfortunately, the Security Council did not use that authority thus allowing Morocco to continue its obstruction to the Settlement Plan and the referendum process with a view to replace it by an "alternative" formula. Indeed, Morocco declared openly, at the Berlin meeting of September 2000, that it was no longer prepared to cooperate with the UN in its efforts to organize the referendum. Mr. Baker and Mr. Annan, as stated in paragraph 48 of UNSG recent report of February 2002, have recognized that "Morocco was unwilling to go forward with the Settlement Plan". This recognition proves that Morocco has been misleading the International Community for ten years since it first accepted the settlement Plan in 1990-91.

It is well known that Morocco wants now to "discuss" only a solution that would guarantee the integration of Western Sahara into Morocco.

The "Draft Framework Agreement"

Between February 2000, the date of the accomplishment of the identification process and May 5, 2001, the day when the *Draft Framework Agreement* (DFA) was first presented to the Polisario Front, the Secretary General's reports suddenly started giving a bleak picture of the situation and stressing growing difficulties for the implementation of the Settlement Plan.

As a result of Morocco's attempts to block the referendum, Personal Envoy, James Baker III, explored other possible mechanisms to resolve the conflict. This has led to a gradual shift to what later was called the "Draft Framework Agreement", included in the UN Secretary General Report S/2001/613 of 20 June 2001.

Beyond its confusing label, the so-called "Draft Framework Agreement" is in fact a planned integration of the Territory into Morocco through a fake referendum. It is based on two main elements:

a) A transitional period of 5 years during which the Territory will remain under Moroccan sovereignty while different electoral bodies, including the Moroccan population residing in the Territory, will elect an Executive and Legislative council.

b) At the end of that period of time, "a referendum will decide the future of the Territory in which to be qualified to vote, a voter must have been a full time resident of Western Sahara for the preceding one year" (paragraph 5 of DFA). This provision will allow an electoral body made up by Moroccan settlers, different from the one already identified by the United Nations, to take part in a decisive referendum on self- determination that should be granted only to the people of Western Sahara.

It has been indicated that the Governments of two permanent members of the Security Council, have agreed to consider themselves, if be needed, as "guarantors of the performance of the agreement."

The Draft Framework Agreement's inconsistency

The DFA is an obvious attempt to satisfy Morocco's aspirations and legitimize its illegal occupation of Western Sahara. If the real motivations behind this radical change vis-à-vis the UN Settlement Plan are still unknown, it is, however, evident that the legitimacy and legality of the new formula go against the UN resolutions on Western Sahara and the verdict of the International Court of Justice which have stressed that Morocco has no legitimate claims over Western Sahara.

In this connection, a close consideration of the arguments and of the substance will show the inconsistency of the DFA.

A) On the one hand, three main "arguments" were used as a bridge to try to abandon the Settlement Plan as a step to introduce the DFA.

First: Processing 130,000 appeals lodged by Morocco will require at least 2 years, and, thus, the referendum could not be organized before 2002.

However, the DFA foresees a" referendum" in 5 years. It therefore seems inconsistent to be "impatient" with 2 years while showing "leniency" with 5 years, which is a longer period of time.

Furthermore, had MINURSO been instructed to initiate the appeals process in February 2000 it would have already accomplished this task and the referendum would have been held.

Second: The absence in the Settlement Plan of "enforcement mechanisms" would allow the parties not to respect the results of the referendum.

This argument seems to refer to Morocco since the Polisario Front has always stressed that it will abide by the results of a free and fair referendum organized by the United Nations in conformity with the Settlement Plan. It is hard to believe that Morocco could challenge with impunity the results of a referendum it voluntarily accepted. Even so, the Security Council can take at an appropriate time all necessary measures, in conformity with the UN Charter, to make sure that the parties will respect the results of a referendum organized under its authority.

Putting forward the argument of absence of "enforcement mechanisms" as a major and insoluble problem in the way of the referendum, before the referendum even takes place, is tantamount to undermining the authority of both the Security Council and the Secretary General, and it encourages Morocco to continue obstructing the peace process.

Furthermore, as indicated above, two major powers, permanent members of the Council were ready to "guarantee" the implementation of the Draft Framework Agreement. In our point of view, it will be more understandable and easier to be ready to "guarantee" the results of a referendum endorsed by the UN Security Council in conformity with the settlement Plan and the Houston Accords, which were negotiated by the two parties under the auspices of a former US Secretary of State.

Third: The referendum on self-determination envisaged in the settlement Plan is a "winner-takes-all" solution.
The third argument means the replacement of the right of self-determination, cornerstone of the United Nations doctrine regarding the decolonization and the very substance of the Settlement Plan, by a mercantile approach (winners and losers) to judge the worthiness and the merit of the referendum on self-determination.

In fact, there is only a winner: the people of Western Sahara whose right to self-determination must be respected. The two parties, Polisario Front and Morocco, have voluntarily accepted the Settlement Plan and the referendum formula, which contains

two options, independence of the Territory or its integration into Morocco. It seems bizarre and incongruous after 10 years of efforts aimed at moving forward the referendum process to invoke now the so-called "loser-winner' approach, which is by nature inherent to any free and fair referendum or elections, to try to justify the abandonment of the Settlement Plan.

The lack of coherence of the third argument does not need to be proven since the DFA itself will allow Morocco, an illegal occupying power, to "take all", to integrate all Western Sahara as a Moroccan territory at the end of a 5 year period through a fake referendum.

Morocco and those who advocate the merits of the DFA do not hesitate to allege that it "provides for self-determination". They argue that the final status of Western Sahara will be submitted to a "referendum". However, why be in favor of a" referendum" in the context of the DFA and at the same time be against the referendum in the framework of the Settlement Plan, which is the unique agreement between the parties and the unique solution endorsed by the Security Council and the International Community.

Against this background, the arguments used to justify the abandonment of the Settlement Plan, so as to introduce a thinly veiled formula of Morocco's integration plan, cannot withstand a close examination. Unfortunately, in the process, the UN resolutions, the MINURSO achievements such as the cease-fire, the identification of voters, the pre-registration of refugees, and the Proposals made on May 2001 by the Polisario aimed at facilitating the resumption of the referendum were deliberately minimized as well as the great value of the Houston Agreements.

B) On the other hand, the Polisario Front cannot accept the DFA as an alternative to the Settlement Plan since it is based on an evident denial of the right of self-determination of the people of Western Sahara, and legitimizes the occupation of Western Sahara by Morocco.

In this connection, it is worthy to remember that the purpose of the DFA, as formulated in the paragraph 30 of the Secretary General report S/2000/1029 of October 25, 2000, was to request the Government of Morocco, as "administrative power" (sic) to offer or support some devolution of governmental authority, for all inhabitants (settlers included) and former inhabitants of the territory, that is genuine, substantial and keeping with international norms".

It should be recalled that the International Court of Justice (opinion of October 14,1975) as well as United Nations Legal Department, (opinion of January 29, 2002), did not recognize Morocco's sovereignty over Western Sahara nor even the status of an administering power. However, the DFA approach considers (1) Western Sahara as a "Moroccan" Territory; (2) its inhabitants, the Sahrawi people and the settlers, as Moroccan" citizens; and (3) the right of self-determination and independence is being replaced by "some devolution of governmental authority" offered by what is de facto an occupying power.

As a result, the Security Council resolution 1359 of June 2001 did not endorse either the DFA or the Secretary General's report, which contained such a controversial formula. Even so, the Draft was discussed at the Wyoming meeting of August 2001.The Polisario Front reiterated its rejection to the Draft, as did Algeria, while Mauritania made it clear that it will support only a solution acceptable to the two parties. Morocco did not come to Wyoming, given the fact that the DFA was presumably elaborated in close coordination with it as can be deduced from the interview of King Mohamed VI to the French newspaper, *Le Figaro*, of September 4, 2001.

Taking into account what has been said above, the Draft Framework Agreement can be neither an "agreement" nor a "framework" to resolve the conflict of Western Sahara. Its "*capital sin*" lies in the fact that, on the one hand, it aims at replacing the unique agreed legal basis (the settlement Plan) by a unilateral approach that fits the occupying power desires. On the other, it allows a Moroccan population instead of the people of the Territory to decide, in a "fake referendum" to be held at the end of 5 years of transitional period, the final legal status of Western Sahara.

The advocates of the DFA have been stressing that some "amendments and improvements" within the transitional period may be possible. However, this is an irrelevant question given the fact that the problem is not related with some "flaws" on the technicalities of the transitional period foreseen in the DFA but with the very premises of the DFA itself, which ignores the very nature of the conflict of Western Sahara às a question of decolonization that must be resolved on the basis of the right to self-determination. The sole people legitimated by the international legality to decide the future of the territory is the Sahrawi people represented by the electoral body already identified by the United Nations. As a consequence, the Settlement Plan is still the best, credible and viable way to go forward in the direction of a lasting and just solution to the last colonial case in Africa.

Recent Developments

On February 19 of this year, the Secretary-General of the United Nations issued a report concerning the situation in Western Sahara. This report restated the past ten years of negotiations and concluded that there were four options available to the Security Council to consider and adopt one of them with a view to enforcing its implementation without seeking the concurrence of both parties. The four options were:

1) Implementation of the Settlement Plan (the Referendum Process) which is the unique solution accepted by the two parties and endorsed by the Security Council.

2) Implementation of the Draft Framework Agreement (the integration of Western Sahara as a Moroccan territory), after making adjustments to it.

3) Partition of the Territory between the two parties.

4) To proclaim the failure of United Nations and to decide withdrawal of the UN mission from Western Sahara.

The Secretary General recommended extending the UN Mission's mandate until April 20, 2002 in order for the Security Council to decide on a way forward.

During the SC consultations of February 27, 2002, Mr. Baker stated to the members of the Council that an independent Sahrawi state would be viable and would contribute to the creation of stability in the Maghreb.

The Security Council extended the mandate of the UN Mission and started in early March 2002 consultations with the parties and Security Council experts about the options proposed by the UN Secretary General and his Special Envoy Mr. James Baker III.

Morocco rejected all the options except the second one, the DFA. The Polisario Front, while stressing that the Settlement Plan remains as the unique solution accepted by the two parties and endorsed by the UN Security Council, expressed its readiness to continue its cooperation with the UN Secretary General and his Personal Envoy efforts as long as they are aimed at ensuring a just and lasting solution to the conflict and, therefore, they take into account the legitimate national rights of the Sahrawi people.

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On April 26, 2002, a permanent member of the Council had, against all odds, circulated a draft proposal based on option 2.
On April 30, 2002, the Security Council of the United Nations met to consider its position with regard to the report from the Secretary-General and the proposed alternatives to resolve the conflict. The Security Council chose not to make a hasty decision that would not lead to a lasting and just resolution of the conflict and instead opted to extend the mandate of the UN Mission (MINURSO) until July 31, 2002 to give further time for the consideration of the options presented. The Polisario Front highly appreciated that the Security Council took such a wise decision, which will certainly give a greater chance for peace.

Conclusion

The decolonization of the Western Sahara has been on the UN agenda since the 1960s and remains as a case in which the credibility of the UN and its decolonization efforts are at stake.

Morocco, for domestic reasons, invaded in 1975 Western Sahara and it is still using the conflict as a tool to deflect the internal opinion from social and economic problems. It has been illegally occupying the Territory for more than 27 years during which it engaged in a systematic violation of human rights in the occupied zones while offering the resources of the territory to foreign companies with a view to take advantage of its illegal occupation through exploitation.

The annexation by force of a territory must not be rewarded. It is quite disturbing to see attempts being made to use the UN, which is meant to be an instrument of peace and justice and has always been on the side of the colonized peoples, as an instrument to legitimize occupation and in the process violate one of its sacred principles: the right to self-determination.

It is also an irony that, while the UN handed over a fully independent East Timor to its people, there are attempts to adopt a totally different approach to an identical situation in Western Sahara.

The Sahrawi people must exercise in a fair, free and democratic manner their right to self-determination. Any other solution against this fundamental right will only lead to more instability and conflict in the region and will not contribute to the credibility of the UN.

June 2002

United Nations S/2002/750

Security Council

Distr.: General
11 July 2002
English
Original: French

Letter dated 11 July 2002 from the Permanent Representative of the Democratic Republic of the Congo to the United Nations addressed to the President of the Security Council

On instructions from my Government, I regret to inform you that on 20 June 2002, Elungu Pene Elungu, the traditional chief of the village of Babindi in the Ubundu area southeast of Kisangani, was murdered together with his six children by troops of the Seventh Brigade of the Rassemblement congolais pour la démocratie (RCD/GOMA) led by Commander Laurent Kunde (or Kunda).

According to credible sources, including the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC), the victims had been taken to a neighbouring village where they had been summarily executed. That village had then been burned down.

The Security Council will recall that the name of commander Laurent Kunde and the Seventh Brigade of RCD/GOMA had already been mentioned in a number of reports, including those of the United Nations, in connection with the summary execution of five RCD/GOMA officers at Kalemie in May 2002 and the brutal and bloody repression in Kisangani on 14 May 2002.

My Government calls upon the Security Council:

1. To condemn these fresh violations of human rights by RCD/GOMA;

2. To demand that RCD/GOMA should bring Laurent Kunde and his hatchet men of the sinister RCD/GOMA Seventh Brigade before the courts to answer for their crimes;

3. To demand from RCD/GOMA the immediate demilitarization of the city of Kisangani and its environs, a sine qua non for the restoration of normalcy to that ravaged area of the Democratic Republic of the Congo.

My Government urges the Security Council to take action on this letter and should be grateful if it would have the letter circulated as a document of the Security Council.

(*Signed*) Ileka **Atoki**
Ambassador
Permanent Representative

02-47537 (E) 120702 120702

United Nations S/2002/751

Security Council

Distr.: General
12 July 2002
English
Original: English and French

Draft resolution

The Security Council,

Recalling all its earlier relevant resolutions, including resolutions 779 (1992) of 6 October 1992, 981 (1995) of 31 March 1995, 1088 (1996) of 12 December 1996, 1147 (1998) of 13 January 1998, 1183 (1998) of 15 July 1998, 1222 (1999) of 15 January 1999, 1252 (1999) of 15 July 1999, 1285 (2000) of 13 January 2000, 1307 (2000) of 13 July 2000, 1335 (2001) of 12 January 2001, 1357 (2001) of 21 June 2001, 1362 (2001) of 11 July 2001 and 1387 (2002) of 15 January 2002,

Having considered the report of the Secretary-General of 28 June 2002 (S/2002/713) on the United Nations Mission of Observers in Prevlaka (UNMOP),

Reaffirming once again its commitment to the independence, sovereignty and territorial integrity of the Republic of Croatia within its internationally recognized borders,

Noting once again the Joint Declaration signed at Geneva on 30 September 1992 by the Presidents of the Republic of Croatia and the Federal Republic of Yugoslavia, in particular articles 1 and 3 thereof the latter reaffirming their agreement concerning the demilitarization of the Prevlaka peninsula, and the Agreement on Normalization of Relations between the Republic of Croatia and the Federal Republic of Yugoslavia of 23 August 1996 (S/1996/706, annex),

Noting with satisfaction that the overall situation in the UNMOP area of responsibility has remained stable and calm, and *encouraged* by the progress made by the parties in normalizing their bilateral relationship,

Commending the role played by UNMOP, and noting also that the presence of the United Nations military observers continues to be important in maintaining conditions that are conducive to a negotiated settlement of the disputed issue of Prevlaka,

Recalling the relevant principles contained in the Convention of the Safety of the United Nations and Associated Personnel adopted on 9 December 1994 and the statement of its President of 10 February 2000 (S/PRST/2000/4),

1. *Authorizes* the United Nations military observers to continue monitoring the demilitarization of the Prevlaka peninsula, in accordance with resolutions 779 (1992) and 981 (1995) and paragraphs 19 and 20 of the report of the Secretary-General of 13 December 1995 (S/1995/1028), until 15 October 2002, and requests the Secretary-General to report to the Council prior to this date, as appropriate;

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2. *Reiterates* its calls upon the parties to cease all violations of the demilitarized regime in the United Nations designated zones, to cooperate fully with the United Nations military observers and to ensure their safety and full and unrestricted freedom of movement;

3. *Welcomes* continuing progress in the normalization of relations between the Governments of the Republic of Croatia and the Federal Republic of Yugoslavia and the establishment of an interstate Border Commission, and urges the parties to accelerate efforts towards a negotiated settlement on the disputed issue of Prevlaka in accordance with article 4 of the Agreement on Normalization of Relations, and expresses its intention to review the duration of the authority given in paragraph 1 above if the parties inform the Council that a negotiated agreement has been reached as described in section V of the report of the Secretary-General of 28 June 2002 (S/2002/713);

4. *Decides* to remain seized of the matter.

United Nations A/56/1004–S/2002/752

General Assembly
Security Council

Distr.: General
12 July 2002
English
Original: Arabic

General Assembly
Fifty-sixth session
Agenda item 42
The situation in the Middle East

Security Council
Fifty-seventh year

Letter dated 11 July 2002 from the Chargé d'affaires a.i. of the Permanent Mission of Lebanon to the United Nations addressed to the Secretary-General

On instructions from my Government, I have the honour to inform you that at 0130 hours on the night of 3/4 July 2002 an Israeli patrol halted at the eastern gate of the Metullah settlement opposite Al-Qa'im mosque in Kafr Killa. Soldiers alighted from HMMWV ("Hummer") vehicles, opened the gate and went through the technical fence into Lebanese territory. Six of them stood in front of the gate and another went and stood on a concrete cuboid structure some seven metres from the technical fence. Three minutes later, a patrol from the Indian contingent [of the United Nations Interim Force in Lebanon (UNIFIL)] arrived from the direction of the Khiyam lowland and stopped near the Israeli soldiers at the cuboid structure. It then left only to return ten minutes later reinforced by another unit. They stood in front of the Israeli soldiers blocking their way after elements of the resistance had been placed on alert opposite the gate.

After inspecting the site, Lieutenant Colonel René de Coin, chief of the international liaison unit, concluded that the incident had not been a violation but that Lebanon had clearly been provoked by the Israelis when their soldiers had come through the gate without informing UNIFIL of their intention to do so. He stated that they could be held responsible for creating an explosive situation, and he warned against any repetition of what had happened.

The Lebanese Government is of the view that the entry of the Israeli soldiers by way of the gate opposite point 136 west of Metullah on the pretext of mending the fence there constitutes a serious Israeli provocation, especially since UNIFIL was not informed in advance and given the late hour at which they managed to contrive to have the incident take place. This happened in a delicate situation of heightened alert in the area and could have provoked a reaction from citizens and resistance elements. Any future recurrence could have serious consequences.

In the light of the foregoing, Lebanon wishes to lodge with you a protest against these planned and contrived Israeli provocations at this sensitive juncture,

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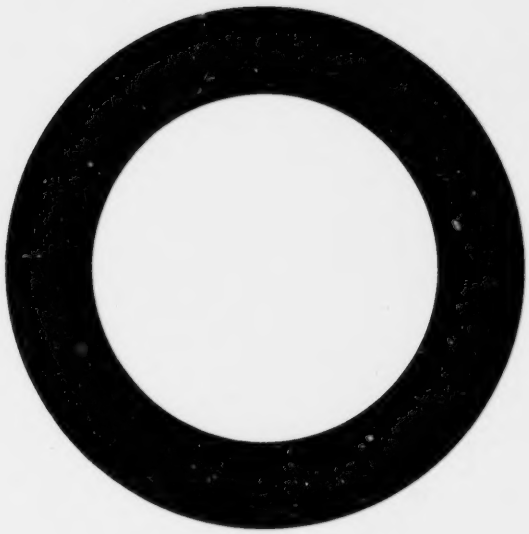
especially since they coincide with the Israeli political incitement and scare-mongering against Lebanon in the media.

I should be grateful if you would have this letter circulated as a document of the General Assembly, under agenda item 42, and of the Security Council.

(*Signed*) Houssam Asaad **Diab**
Chargé d'affaires a.i.



United Nations S/2002/753

Security Council

Distr.: General
12 July 2002
English
Original: Spanish

Letter dated 10 July 2002 from the Permanent Representative of Mexico to the United Nations addressed to the President of the Security Council

I have the honour to transmit the assessment of the work of the Security Council during the presidency of Mexico in February 2002 (see annex). The assessment was prepared pursuant to the note by the President of the Security Council dated 12 June 1997 (S/1997/451).

I would be grateful if this letter and the attached assessment could be circulated as a document of the Security Council.

(*Signed*) Adolfo **Aguilar Zinser**
Ambassador
Permanent Representative of Mexico to the United Nations

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Annex to the letter dated 10 July 2002 from the Permanent Representative of Mexico to the United Nations addressed to the President of the Security Council

Assessment of the work of the Security Council during the presidency of Mexico (February 2002)

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I. Introduction

1. The Permanent Mission of Mexico to the United Nations, represented by Ambassador Adolfo Aguilar Zinser, held the presidency of the Security Council during February 2002. Mexico's presidency, after nearly 20 years of absence, was characterized by the launching of an intensive programme of work. In addition to informal consultations, which have been the usual procedure for taking decisions in the Council, a total of 12 public meetings and four closed meetings were held, and new working methods were adopted. During the month, a mission composed of all the members of the Council visited Ethiopia and Eritrea to reinforce the border demarcation process, and the Council extended the mandate of the United Nations Mission for the Referendum in Western Sahara (MINURSO).

2. All the activities of the Mexican presidency were conducted with full transparency, in fulfilment of one of our country's main promises during its campaign for the votes of all Member States of the United Nations. Although transparency is a working premise and an objective adhered to by all members of the Council, in practice there is always a certain tension between the desire to have comprehensive debates and the resistance to prolonged meetings. The Mexican presidency decided to propose and adopt pragmatic solutions for each case, continually seeking a balance between transparency and effectiveness; between the desire to maintain and expand opportunities for all Member States to express their views and the need to function as efficiently as possible.

3. On the basis of these criteria, Mexico's presidency resorted to a number of different formulas for conducting the work of the Security Council. These included, as far as possible, the presentation of reports by the Secretary-General at public meetings; the distinction during informal consultations between briefings and exchanges of views; and the organization of interactive debates, both in public meetings and in informal consultations. Guidelines were issued for the meeting held in order to assess the work of the Security Council, which included limiting the amount of time allowed for each delegation to speak.

4. In addition, an open-door policy was followed with all Member States, especially those whose interests were being discussed by the Council. All interviews requested by Member States, and also by non-governmental organizations, that wished to have access to the President of the Council were granted. Similarly, briefings by Mexico and Colombia were held on the Council's activities for members of the Rio Group and of the Group of Latin American and Caribbean States. The President also held talks with the chairmen of the regional groups and provided a steady supply of information to the media to ensure that the work of the Security Council was well disseminated among all concerned. Lastly, the Permanent Mission of Mexico took on the responsibility of posting summaries of the Council's public and closed meetings on its web site for consultation and future reference.

5. The Mexican presidency operated on the basis of the concept of "partnership" within the United Nations to deal with conflict zones and prepared a document entitled "Partnership for a lasting peace" to guide Mexico's position during consultations.

6. During the month of February, agreement was reached among the members on the holding of an interactive wrap-up meeting to summarize the work of the Council. The delegations of Singapore and France contributed to this effort. The

Mexican initiative was based on a proposal, originally submitted by the French delegation, and concluded with a formula focusing the debate on certain matters and encouraging the participation of non-member countries by regional group.

7. Another feature of the Mexican presidency was the flexibility shown in the management of the Council's programme of work. Consultations were held on Liberia due to the intensification of the conflict in that country; a briefing on Cyprus was held to discuss progress in the talks being held by the Special Envoy of the Secretary-General; and a public discussion was held on the Middle East in response to the upward spiral of violence in the region and the request submitted by the Permanent Observer Mission of Palestine and the Group of Arab States.

8. The programme of work for February included:

(a) Twelve formal meetings, during which, among other things, the Council adopted resolution 1394 (2002), extending for two months the mandate of MINURSO, and resolution 1395 (2002), on sanctions against Liberia; at three of these meetings, the President of the Council issued statements on Burundi (S/PRST/2002/3); on the work of Mr. Michael Steiner, Special Representative of the Secretary-General for Kosovo, Federal Republic of Yugoslavia (S/PRST/2002/4); and on the situation of the Democratic Republic of the Congo (S/PRST/2002/5). In addition, an open debate was held on "The situation in the Middle East, including the Palestinian question";

(b) Four closed meetings, at which the Security Council considered the situation in Burundi and the situation in Kosovo, Federal Republic of Yugoslavia; met with troop-contributing countries to MINURSO; and assessed its work during the month; and

(c) Agreement on the text of two notes by the President, on the format of the annual report of the Security Council to the General Assembly (S/2002/199) and the establishment of the ad hoc Working Group on Conflict Prevention and Resolution in Africa (S/2002/207).

9. Two major changes were made in the Council's methods of work under Mexico's presidency. The first was the simplification of the annual report of the Security Council to the General Assembly. The second was the establishment of the ad hoc Working Group on Conflict Prevention and Resolution in Africa.

II. Substantive matters

A. Africa

1. The situation in Angola

10. Participants in the public meeting on the humanitarian situation in Angola, held on 13 February, included, in addition to members of the Council, Mr. Kenzo Oshima, United Nations Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator, who reported on the humanitarian situation in Angola; Mr. Erick de Mul, United Nations Humanitarian Coordinator in Angola; Mr. Georges Chikoti, Vice-Minister for Foreign Affairs of Angola; and Ambassador Francisco Seixas da Costa, Permanent Representative of Portugal to the United

Nations, who spoke on behalf of the troika of observer States to the Lusaka Protocol.

11. The statements by members of the Council converged on the following points: the need to settle the conflict in the framework of the 1994 Lusaka Protocol; an appeal to the União Nacional para a Independência Total de Angola (UNITA) to cease its hostilities, especially against civil society, and agree to hold talks with the Government to bring about peace; and an invitation to the Government to improve the living conditions of internally displaced persons, rebuild infrastructure, improve access to humanitarian assistance and establish programmes to ensure respect for the human rights of the Angolan people. The verbatim record of this meeting was issued as document S/PV.4472.

12. On 26 February, the Secretariat briefed the Council on the situation in Angola. This meeting, which consisted only of a report by Mr. Ibrahim Gambari, Adviser to the Secretary-General for Special Assignments in Africa, was convened because of the death in combat on 22 February of Mr. Jonas Savimbi, the leader of UNITA, an event that opened up an unprecedented opportunity for the peace process in Angola.

2. The situation in Burundi

13. The meeting with the President of Burundi, Major Pierre Buyoya, were held in two segments. At the first meeting, the Security Council and all States Members of the United Nations heard a statement by President Buyoya. At a subsequent closed meeting, the Council established an interactive dialogue with the President. The verbatim record of this meeting was issued as document S/PV.4467, and the official communiqué of the closed meeting was issued as document S/PV.4468.

14. The members of the Council noted that the positive events in Burundi were encouraging refugees to return to their homes. They recognized, however, that peace was still being threatened by the activities of armed groups; that the ceasefire was of the highest priority; and that greater pressure must be put on rebel groups to join in the peace efforts. They endorsed the work of President Bongo of Gabon and Deputy President Zuma of South Africa and drew attention to the need to support the efforts to provide assistance to Burundi; to invite the donors to honour their pledges made in Geneva; and to take steps to strengthen the transition process.

15. On 7 February, the President of the Security Council issued statement S/PRST/2002/3 on the basis of a French initiative and after a series of consultations. The verbatim record of this meeting was issued as document S/PV.4471.

3. The situation in Ethiopia and Eritrea

16. The Council sent a mission to Ethiopia and Eritrea from 21 to 25 February. It was headed by Ambassador Peter Kolby, Permanent Representative of Norway to the United Nations. Representatives of the 15 members of the Council participated.

17. The main purpose of the Council's mission was to encourage the parties to continue their implementation of the Algiers Agreements in the context of the current peace process, especially with a view to the decision to be issued by the Boundary Commission at the end of March to demarcate the borders between Ethiopia and Eritrea.

18. The report on the Council's mission to Ethiopia and Eritrea is contained in document S/2002/205.

4. The situation in Liberia

19. On 13 February the members of the Council considered the situation in Liberia. The Secretariat gave a briefing on the political, humanitarian and social situation of the country, and in particular on the conflicts in the north and north-west parts of the country.

20. The President issued a press statement (SC/7301) in which the members of the Council, among other things, deplored the violence and expressed their concern regarding the humanitarian and social situation in Liberia.

21. On 27 February, the Security Council adopted resolution 1395 (2002) to re-establish the Panel of Experts on Liberia for a further period of five weeks to assess the implementation of the sanctions imposed on Liberia. The verbatim record of this meeting was issued as document S/PV.4481.

5. The situation in Madagascar

22. As a follow-up to a meeting held on 28 January, the members of the Council again considered the topic of Madagascar on 27 February. The Secretariat gave a briefing on the situation prevailing in that country.

6. The situation concerning Western Sahara

23. On 19 February, the Secretariat gave a briefing on the legal opinion provided by the Legal Counsel on the legality in the context of international law, including relevant resolutions of the Security Council and the General Assembly and the agreements concerning Western Sahara, of actions allegedly taken by Moroccan authorities consisting in the offering and signing of contracts with foreign companies for the exploration of mineral resources in Western Sahara, which was issued as document S/2002/161. The Secretariat noted that the legal opinion should be dealt with on its own merits, and that it had been the result of a careful investigation.

24. On 25 February, the Council, in compliance with resolution 1353 (2001), met with the troop-contributing countries to MINURSO to hear their reactions to the Secretary-General's proposal on extending the mandate of the mission for two months. Following the meeting, an official communiqué was issued as document S/PV.4477.

25. On 26 February, the Secretariat submitted to the members of the Council the report of the Secretary-General on the situation concerning Western Sahara (S/2002/178). Members of the Council supported the extension of the mandate of MINURSO and opposed the withdrawal of the mission before an agreed settlement was reached by the parties. Following the consultations, the President issued a press statement (SC/7307).

26. On 27 February, Mr. James Baker III, Personal Envoy of the Secretary-General, said that the Secretary-General's report and the options contained therein reflected frustration that in 11 years it had not been possible to find a lasting solution; he also expressed the view that a consensus solution was impossible. At

the meeting, members reiterated their belief that, to be durable, the solution had to be acceptable to all parties.

27. After the consultations, the Council held a public meeting at which it unanimously adopted resolution 1394 (2002) submitted by the United States of America, on behalf of the Group of Friends, in which it decided to extend the mandate of MINURSO until 30 April 2002 and to consider the options described in the Secretary-General's report as part of its programme of work. The verbatim record of the meeting was published as document S/PV.4480.

B. Asia

The situation in Afghanistan

28. At the Council's meeting on 6 February, the Secretary-General, Mr. Kofi Annan, and his Special Representative for Afghanistan, Mr. Lakhdar Brahimi, reported on the situation in Afghanistan. Concerning the implementation of the Bonn Agreement, the Special Representative reported that the Special Independent Commission for the Convening of the Emergency Loya Jirga had already been set up and that the Interim Authority was studying the establishment of a Civil Service Commission.

29. Referring to the establishment of the United Nations Assistance Mission in Afghanistan, the Special Representative said that the Mission must have a "light footprint", while Afghans must take a leading role in internal affairs. The verbatim record of the meeting was published as document S/PV.4469.

30. On the afternoon of 6 February, an Arria formula meeting, chaired by Ireland, was held with Ms. Sadako Ogata, Special Representative of the Prime Minister of Japan and Co-President of the Tokyo Conference, who expressed her views on the humanitarian situation in Afghanistan and reported on the outcome of the International Conference on Reconstruction Assistance to Afghanistan, held in Tokyo on 21 and 22 January.

31. At the Council's meeting on 27 February, Mr. Kieran Predergast, Under-Secretary-General for Political Affairs, reported on developments in Afghanistan. He commented on the details of the work done by the Commission for the Convening of the Emergency Loya Jirga, saying that there were fears that armed groups might interfere in the process of selecting and electing delegates to the Loya Jirga. He announced that the Interim Authority had paid the salaries of public servants in February. He reported that the International Security Assistance Force had begun training the first battalion of the new Afghan national army and that Germany was contributing to police training. The verbatim record of the meeting was published as document S/PV. 4479.

32. Members of the Security Council had before them the letter dated 4 February 2002 from the Secretary-General to the President of the Council (S/2002/156) and the President's reply dated 8 February 2002 (S/2002/157) concerning the administrative and financial measures necessary to facilitate the establishment and support of an integrated United Nations Mission in Afghanistan. Members of the Council took note of the two letters, on the understanding that the measures taken would be without prejudice to final decisions on the financing of the mission.

C. Europe

1. The situation in Cyprus

33. On 26 February, the Secretary-General's Special Adviser on Cyprus, Mr. Alvaro de Soto, briefed the Council on the first round of direct talks between the Greek Cypriot and Turkish Cypriot leaders aimed at the reunification of the island and the cessation of the conflict. He said that the parties to the talks had agreed not to divulge any information on the progress made and noted that if a final agreement was to be reached by June 2002, the parties would have to make a greater effort to settle their differences during the second round of talks. Members of the Council expressed support for the talks taking place between the parties to the conflict and shared the view expressed by the two leaders that it should be the objective to reach agreement by June 2002. A press statement was issued (SC/7308).

Security Council resolutions 1160 (1998), 1199 (1998), 1203 (1998), 1239 (1999) and 1244 (1999)

34. During the informal consultations held on 13 February, members of the Security Council agreed on a draft presidential statement (S/PRST/2002/4), which was read out at a public meeting held the same day. The verbatim record of the meeting was published as document S/PV.4473.

35. Members of the Security Council expressed support for the new Special Representative of the Secretary-General and appreciation for the work done by the United Nations Interim Administration Mission in Kosovo. They called on the political parties to resolve the deadlock over the formation of provisional self-governing institutions and pointed to the need for the province's institutions to be multi-ethnic. They criticized the way in which the Serb minority was being treated. They recalled the situation of refugees and internally displaced persons and called for their return to be encouraged, even by means of economic incentives. They said that it was important to establish the rule of law. Concerning the border demarcation agreement between The former Yugoslav Republic of Macedonia and the Federal Republic of Yugoslavia, they expressed support for the statements made by the Secretary-General's spokesman on 21 February, which referred to the 7 March 2001 statement by the President of the Security Council (S/PRST/2001/7*). The verbatim record of the meeting was published as document S/PV.4475.

36. On 28 February, the Secretariat briefed the Security Council on the agreement reached among the three majority Kosovo Albanian parties to nominate the President and Prime Minister of the provisional self-governing institutions, subject to ratification by the Assembly. It reported that Mr. Ibrahim Rugova (Democratic League of Kosovo) would occupy the post of President and Mr. Bajram Rexhepi (Democratic Party of Kosovo) the post of Prime Minister. A draft press statement was agreed.

37. In a press statement (SC/7315), members of the Council expressed satisfaction with the agreement reached in Kosovo, Federal Republic of Yugoslavia, on the nomination of the President and Prime Minister, subject to ratification by the Assembly.

D. Middle East

1. The situation in the Middle East, including the Palestinian question

38. On 14 February, the situation in the Middle East, including the Palestinian question, was considered. In a press statement (SC/7302), members of the Council expressed concern at the continuing violence in the region and shared the expressed dismay of the Secretary-General at the attack on United Nations offices in Gaza. They said that they would continue to hold regular briefings on the situation in the Middle East.

39. On 21 February, the President briefed Council members on his previous day's meetings with the Arab Group troika, headed by the Permanent Representative of Yemen, and separately with the Chargé d'affaires of the Permanent Observer Mission of Palestine, both of whom had handed him letters requesting an urgent meeting of the Council to consider the situation in the Middle East (S/2002/182 and S/2002/184).

40. On that occasion, it was decided to hold a Security Council briefing with the Secretary-General and the President of the Council as the only speakers and to postpone a public debate on the question to the following week.

41. At the briefing held the same day, the Secretary-General said that although the news from the Middle East was cause for concern, there was still room for hope. He said that there were new proposals that must be considered immediately by the two sides and by the international community. He emphasized that ending the violence was the overriding priority. He said that the security problem must be addressed in conjunction with other political issues, particularly the question of land, and with economic and social issues, including the Palestinians' worsening living conditions.

42. The President of the Security Council said that the situation in the region entailed serious risks for international security. He expressed regret at the suffering of the civilian population, the loss of human lives and the destruction, and support for the United Nations presence in the region and for the Secretary-General's efforts.

43. On 26 and 27 February, in response to the requests from the Permanent Representative of Yemen and the Chargé d'affaires of the Permanent Observer Mission of Palestine to the United Nations, the Council held public meetings to consider the situation in the Middle East, including the Palestinian question. The verbatim records of these public meetings were published as S/PV.4474, S/PV.4478 and S/PV.4478 (Resumption 1).

2. The situation in Iraq

44. In the Council's informal consultations held on 26 February, the Executive Director of the Office of the Iraq Programme, Mr. Benon V. Sevan, reported on the outcome of his visit to Iraq from 14 January to 10 February. He referred to his contacts with various Iraqi officials to discuss the status of the "oil-for-food" programme, emphasizing the importance of meeting the humanitarian needs of the Iraqi people.

E. Other matters

Briefing by Mr. Ruud Lubbers, United Nations High Commissioner for Refugees

45. On 7 February, the United Nations High Commissioner for Refugees, Mr. Ruud Lubbers, briefed members of the Security Council on the 21 million refugees and internally displaced persons in the world. He began by recalling 11 September and resolution 1373 (2001), which calls on States to work together to prevent and suppress terrorist acts and to prevent terrorists from gaining admission to countries by abusing the asylum system. He noted that the resolution was consistent with the 1951 Convention relating to the Status of Refugees, which specifically excludes persons who have committed serious crimes. The verbatim record of the meeting was published as document S/PV.4470.

III. Working methods

1. Annual report of the Security Council

46. On 13 February, members of the Council considered the draft note on the format of the annual report of the Security Council, which had been negotiated at the expert level within the working group of the Security Council on documentation and procedures. The agreed text was issued as document S/2002/199, which establishes the characteristics of future annual reports of the Council. Although the Council did not succeed in making the report an analytical document, progress was made in improving its presentation. Members agreed that an explanatory document originally annexed to the President's note should be included as an annex to the annual report.

2. Ad Hoc Working Group on Africa

47. As a follow-up to the Presidential statement issued in January as a result of the debate on the situation in Africa (S/PRST/2002/2), which established an ad hoc Working Group on conflict prevention and resolution in Africa, the terms of reference for that Group were negotiated in February and published as a note by the President of the Security Council (S/2002/207). The ad hoc Group will enable the Council to meet both with the representatives to the United Nations of countries involved in conflicts and with other personalities from regional organizations or civil society. The fact that the Council devotes nearly 80 per cent of its time to African questions makes the Group, which is chaired by an African country, very useful as a body charged with exploring avenues of negotiation more flexibly. The work of this newly created Group will be reviewed six months from its establishment.

48. During the negotiations, three fundamental elements were identified, which were reflected in the President's note:

(a) Enhancement of cooperation between the Security Council and the Economic and Social Council, as well as with other organs of the United Nations system;

(b) Examination of regional and cross-conflict issues, with a focus on conflict prevention and resolution;

(c) Measures to enhance United Nations cooperation with regional organizations, especially the Organization of African Unity, and subregional organizations.

3. Wrap-up session on the work of the Security Council for the month of February

49. On 20 February, members of the Security Council agreed on the format for the wrap-up session, which was to be a private meeting with a definite agenda and a list of speakers alternating between members and non-members of the Council. It was suggested that statements should be limited to three minutes and that participation should be coordinated among the regional groups. The procedure for the session was disseminated through information notes to missions, contacts with the chairmen of regional groups and the Internet.

50. The agenda was as follows:

(a) Partnership for long-lasting peace: the need for greater coordination among United Nations agencies for conflict prevention and resolution. The Presidency prepared a document with guidelines on this item;

(b) Peace and security in Africa. This item was included because the Council had reviewed the situations in Angola, Burundi, the Democratic Republic of the Congo, Liberia and Western Sahara. It had also negotiated the terms of reference for the establishment of the ad hoc Working Group on Africa.

51. On 28 February, the Council held the wrap-up session, which was attended by 63 delegations of States non-members of the Council. The discussion permitted an interactive dialogue in which members and non-members of the Council took turns in making statements.

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Security Council

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Letter dated 12 July 2002 from the Permanent Representatives of Brazil, Canada, New Zealand and South Africa to the United Nations addressed to the President of the Security Council

The present letter concerns draft resolution S/2002/747, which is currently under consideration by the Security Council under the Bosnia and Herzegovina agenda item, but dealing in fact with the International Criminal Court (ICC). The consideration of this matter, under a Chapter VII resolution of the Security Council, is a matter of grave concern, as a large number of Member States have already expressed in the open debate held on 10 July. Since, in spite of the clear opposition of the international community to the Council's adopting the kind of resolutions it is discussing, the Council continues nevertheless to pursue this matter, we feel that it is our obligation to point out specifically that Council action is damaging international efforts to combat impunity, the system of international justice and our collective ability to use these systems in the pursuit of international peace and security.

Leaving aside the legitimacy of the Security Council's arrogating to itself the right to interpret and to change the meaning of treaties, which we challenge, we wish to focus on one of the unacceptable consequences of passing the draft resolution, which was distributed to the members of the Council in provisional form yesterday.

The International Criminal Court was always intended as a court of last resort, filling a void where States fail to undertake their international responsibilities to prosecute perpetrators of grievous crimes. The net effect of operative paragraphs 1 and 2 of S/2002/747 would be to remove that possibility in the specific cases of peacekeepers who may have committed crimes under the Court's jurisdiction, if that peacekeeper comes from a State not party to the Rome Statute. Further, the request to the Court in the draft resolution would be renewable on an annual basis which, for all intents and purposes, would amount to creating a perpetual obstacle to court action. Operative paragraph 3 would have the effect of directing States not to cooperate with ICC if that cooperation were in relation to such a peacekeeper. This means that if such a person were to be found in one of our countries and ICC wished to investigate or prosecute, having taken fully into account the principle of complementarity, the Council would have us refuse to surrender to the Court an alleged perpetrator of one of the three most grievous crimes.

While some States are able to prosecute under universal jurisdiction, many States do not have the ability or means to undertake such a prosecution. Should such an alleged perpetrator be found in a State that cannot exercise universal jurisdiction,

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that perpetrator would enjoy immunity from prosecution, the Council having putatively removed resort to ICC.

We are confident that no highly trained, professional military personnel would engage in acts actionable under the ICC Statute. But no one can give the same confident assurance about all personnel involved in peacekeeping. This is why we have been urging that a solution be found on a bilateral basis, and that the coverage of ICC not be removed from a whole class of international actors.

For this and other reasons cited in our presentations in the open debate, we respectfully request the members of the Council not to pass a resolution that would have such negative consequences.

We would ask that the present letter be made a document of the Security Council.

(*Signed*) Gelson **Fonseca**, Jr.
Ambassador and Permanent Representative
of Brazil

(*Signed*) Paul **Heinbecker**
Ambassador and Permanent Representative
of Canada

(*Signed*) Don **McKay**
Ambassador and Permanent Representative
of New Zealand

(*Signed*) Dumisani Shadrack **Kumalo**
Ambassador and Permanent Representative
of the Republic of South Africa